IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

MACA.No. 1158 of 2007()

OPMV.233/2003 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
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APPELLANT/3RD RESPONDENT

NATIONAL INSURANCE COMPANY LIMITED,
DINDIGUL BRANCH, REP.BY BRANCH MANAGER, OFFICE 12A-A,
SUB COLLECTOR'S OFFICE ROAD, Y.M.R.RATTI,
TAMIL NADU,624001. REP.BY ITS DEPUTY MANAGER,
KOCHI REGIONAL OFFICE, P.B.NO.3235, OMANA BUILDING
JEWS STREET, PADMA JUNCTION, KOCHI-682035.

BY ADV. SRI.LAL GEORGE

RESPONDENTS: PETITIONERS AND RESPONDENTS 1 TO 2
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1. O.J.CHERIAN, ONASSERIL HOUSE,
MANNANAM P.O., KOTTAYAM.

2. ALIYAMMA CHERIAN, ONASSERIL HOUSE,
MANNANAM P.O., KOTTAYAM.

3. SONY CHERIAN, ONASSERIL HOUSE,
MANNANAM P.O., KOTTAYAM.

4. SOLLY CHERIAN, ONASSERIL HOUSE,
MANNANAM P.O., KOTTAYAM.

5. THE PRINCIPAL,
KODAIKANAL INTERNATIONAL SCHOOL,
KODAIKANAL, TAMIL NADU.

6. D.JAYA PAUL, 261, R.M.COLONY,
DINDIGUL, TAMIL NADU.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 11/10/2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.Radhakrishnan & A.K. Basheer, JJ.

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MACA. No. 1158 of 2007

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Cross Objection 58 of 2007

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Dated this the 11th day of October, 2007.

J U D G M E N T

Radhakrishnan, J:

Appeal is filed by the Insurance Company aggrieved by the amount of compensation awarded by the Tribunal. Accident is not disputed; so also the Insurance coverage. The dispute is only with regard to the amount of compensation awarded. Claimants are the parents, sister and brother of the deceased. Deceased was aged 21 at the time of the accident. He was studying for M.Sc Foreign trade in the Christian College, Kodaikanal which is a 2 year course. Tribunal has taken monthly income as Rs.3000 and multiplier 15 was employed. Hence an amount of 5,40,000 was awarded for loss of dependency. Learned counsel appearing for the Insurance Company submits that the above multiplier should have been 8 based on the age of the parents.

2. A Cross Appeal is filed by the claimants disputing the age of the father. It is submitted that the father was aged 53. If the age is taken as 53, the multiplier would be 40. Considering the fact that the Tribunal has taken the multiplier as 15, we are not inclined to interfere with the amount of compensation awarded for loss of dependency. Further, we noticed that the co-passenger of the deceased who was also a student in the same batch filed OP(MV)

No.57/2003. Claim was allowed and an amount of Rs.5,96,000/- was awarded as compensation. Insurance Company has filed MACA.1154/2007 against that award. This Court dismissed that appeal and upheld the award. In such circumstances there is no justification to interfere with the award passed by the Tribunal. In the facts and circumstances of the case the award does not call for interference. We also find that the Cross Appeal is also liable to be dismissed. Accordingly, the appeal and the Cross Appeal are dismissed.

K.S.Radhakrishnan,
Judge.

A.K. Basheer
Judge.

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